

Britner



**Comptroller General
of the United States**

656209

Washington, D.C. 20548

Decision

Matter of: Corliss Neuber - Temporary Quarters
Subsistence Expenses

File: B-257380

Date: September 20, 1994

DIGEST

An employee delayed moving out of her old residence and into temporary quarters incident to a permanent change-of-station because of problems related to the sale of her old residence and the purchase of a new residence. To be eligible for temporary quarters subsistence expenses, the Federal Travel Regulation requires that an employee begin occupying temporary quarters within 30 days of the employee's reporting date at the new duty station. Because the employee did not meet this requirement, her claims for TQSE may not be paid.

DECISION

The Social Security Administration requests a decision on whether Ms. Corliss Neuber's claims for temporary quarters subsistence expenses (TQSE) may be paid. We hold that the claims may not be paid.

BACKGROUND

The agency issued Ms. Neuber, an agency employee, permanent change-of-station orders transferring her from Murray, Utah, to Ogden, Utah, a distance of about 34 miles, with a reporting date at the new duty station of May 17, 1993. Although she reported to her new duty station as scheduled, she continued to reside at her old residence with her adult daughter pending the sale of her old residence. The residence was eventually sold, and Ms. Neuber planned to move into her new residence on August 3. However, because the residence at her new duty station was not available for occupancy on time, she arranged to stay at a motel until the residence could be occupied, for which she claimed TQSE for the periods of August 3-7 and 9-20, 1993. The agency initially denied the claims on the basis that she had not begun occupancy of temporary quarters within 30 days of her date of reporting at the new duty station, as required by applicable regulations. Subsequently, at Ms. Neuber's request, the agency submitted the matter to us for decision.

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Ms. Neuber argues that the agency should have taken into account the difficulties she encountered in both the sale of her old residence and the purchase of a new residence. Furthermore, she asserts, the application of the regulation appears to be discriminatory to her as a single person because she does not have a "family" within the meaning of the regulation, although her grown daughter was living with her at the time of the transfer and did not vacate the residence until July 11.

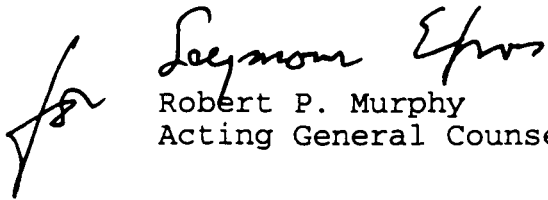
OPINION

To be eligible for TQSE, the Federal Travel Regulation (FTR) requires that an employee must begin occupying temporary quarters not later than 30 days from the date the employee reported to the new duty station or, if not begun during this period, not later than 30 days from the date the employee's family vacates the residence at the old official station. 41 C.F.R. § 302-5.2(e) (1993). It was on this basis that the agency's Travel Management Branch denied Ms. Neuber's claims for TQSE, because, although her daughter may have remained in the residence until July 11, her daughter is not considered a family member, as that term is defined in the FTR. Thus, to be eligible for TQSE, Ms. Neuber had to begin occupying temporary quarters no later June 15, 30 days after she reported to her new duty station, which she did not do.

Regarding the definition of a family member, the FTR states that an employee's child may be considered part of the employee's immediate family only if the child is unmarried and under 21 years of age or, regardless of age, is physically or mentally incapable of self-support. FTR § 302-1.4(f)(ii). Because Ms. Neuber's daughter does not qualify as a family member under this definition, the agency properly determined that the 30-day period in which Ms. Neuber had to begin occupying temporary quarters began on her reporting date, rather than the date her daughter moved out of the old residence.¹

¹The FTR also prohibits the payment of TQSE when the distance between the new official station and the old residence is not more than 40 miles greater than the distance between the old residence and the old official station, except in limited circumstances not applicable here. FTR § 302-5.2(h). Although the two duty stations in this case are only about 34 miles apart, the record does not disclose sufficient information regarding the locations of the old and new residences to determine whether this provision might also bar payment on Ms. Neuber's claims. However, because we are denying Ms. Neuber's claims on other grounds, further inquiry in this regard is not being made.

In view of the above, we agree with the agency's Travel Management Branch that Ms. Neuber's claims for TQSE may not be paid. The applicable regulation, which is cited above, is clearly stated and does not allow for an exception in her case. This allowance, like other allowances provided for in the FTR, may be paid only as authorized by law and regulation. Mark W. Spaulding, B-214757, Sept. 5, 1984. See also, Albert J. Ferraro, B-227497, Oct. 30, 1987. Accordingly, the claims are denied.


Robert P. Murphy
Acting General Counsel